United Nations S/2008/491

Security Council

Distr.: General

29 July 2008

Original: English

## Belgium: draft resolution

*The Security Council*,

*Reaffirming* all its previous resolutions and statements of its President pertaining to the situation between Ethiopia and Eritrea,

*Stressing* once again its unwavering commitment to the peace process and to the full and expeditious implementation of the Agreement on Cessation of Hostilities of 18 June 2000 (S/2000/601) and the Peace Agreement of 12 December 2000 (S/2000/1183) (hereinafter referred to as "the Algiers Agreements") as a basis for peaceful and cooperative relations between Ethiopia and Eritrea,

*Considering* that Ethiopia and Eritrea bear a shared responsibility in the implementation of the Algiers Agreements, in which they agreed that the delimitation and demarcation determinations of the Eritrea-Ethiopia Boundary Commission (EEBC) shall be final and binding and that their forces shall respect the integrity of the Temporary Security Zone (TSZ),

*Reaffirming* that the primary responsibility for achieving a comprehensive and lasting settlement of the border dispute and normalizing their relations rests with Ethiopia and Eritrea, and that the Security Council stands ready to assist them in addressing the underlying fundamental issues, taking into account the interests and concerns of both countries,

*Regretting* that Eritrea's obstructions towards the United Nations Mission in Ethiopia and Eritrea (UNMEE) reached a level so as to undermine the basis of the Mission's mandate and compelled UNMEE to temporarily relocate from Eritrea, *stressing* that this relocation was without prejudice to the Algiers Agreements and to the integrity of the TSZ, and *recalling* the Security Council's previous condemnation of Eritrea's lack of cooperation,

*Commending* the efforts made by UNMEE and its military and civilian personnel to accomplish its duties, despite the difficult circumstances, and *expressing* its deep appreciation for the contribution and dedication of the troop-contributing countries to the work of UNMEE,

*Having considered* the special report of the Secretary-General of 7 April 2008 (S/2008/226), the letters from Ethiopia and Eritrea dated respectively 17 and 18 June 2008, in response to the letters of the President of the Security Council of 10 June 2008, and the letter from the Secretary-General of 28 July 2008

08-44397 (E) 300708

(S/2008/496), in response to the letter of the President of the Security Council of 3 July 2008,

1. *Decides* to terminate UNMEE's mandate effective on 31 July 2008, *emphasizes* that this termination is without prejudice to Ethiopia and Eritrea's obligations under the Algiers Agreements and *calls upon* both countries to cooperate fully with the United Nations including in the process of liquidation of UNMEE;

2. *Demands* Ethiopia and Eritrea to comply fully with their obligations under the Algiers Agreements, to show maximum restraint and refrain from any threat or use of force against each other, and to avoid provocative military activities;

3. *Strongly supports* the ongoing efforts by the Secretary-General and the international community to engage with Ethiopia and Eritrea to help them to implement the Algiers Agreements, to normalize their relations, to promote stability between them, and to lay the foundation for a comprehensive and lasting peace between them, and *urges* again Ethiopia and Eritrea to accept the Secretary-General's good offices;

4. *Requests* the Secretary-General to further explore with Ethiopia and Eritrea the possibility of a United Nations presence in Ethiopia and Eritrea in the context of the maintenance of international peace and security;

5. *Requests* the Secretary-General to keep the Council regularly informed of the situation between Ethiopia and Eritrea and to make recommendations as appropriate;

6. *Decides* to remain actively seized of the matter.

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## Letter dated 25 July 2008 from the Secretary-General addressed to the President of the Security Council

I refer to my letter to the President of the Security Council, dated 9 May 2008 (S/2008/318). In that letter, I informed the Security Council that the processing of the authentication documents remained slow and I recommended that the situation be reviewed by the Working Group in July 2008. The members of the Security Council took note of my recommendation in a letter from the President of the Security Council to me, dated 23 May 2008 (S/2008/341), and requested that the Working Group reconvene at a convenient time in the month of June 2008, with a view to receiving an updated report in July 2008.

Following the request of the Security Council, a meeting of the Working Group was held in Amman from 27 to 30 June 2008 to address and resolve outstanding issues. Attached please find my note (see enclosure) and the related report of the Working Group.

(*Signed*) **Ban** Ki-moon

08-44117 (E) 040808

## Enclosure

### Note by the Secretary-General on the arrangements for the termination of the operations related to the letters of credit raised against the United Nations Iraq Account under Security Council resolution 1483 (2003)

1. The Security Council may recall that I had recommended that the Council might review and decide on how to resolve outstanding issues, including, but not limited to, the establishment of a dispute resolution mechanism as proposed in my letter to the President of the Security Council dated 7 December 2007 (S/2007/725).

2. In a letter from the President of the Security Council to me, dated 23 May 2008 (S/2008/341), the members of the Council affirmed that, in the light of my report to be submitted in July 2008, the Council would take the necessary decisions to conclude all outstanding issues and end the oil-for-food programme without the possibility of any further extensions.

3. With regard to the report on the meeting of the Working Group, held from 1 to 5 May 2008 (see S/2008/318), I should note that the ministries of the Government of Iraq concerned have now requested the cancellation of 53 of the 79 letters of credit for which a confirmation of arrival was then expected. At the time of the Working Group meeting in June 2008, only 26 (as opposed to 79) confirmations of arrival were expected to be issued by the Government of Iraq before 15 July 2008. As in the past, the Secretariat will review the 53 letters of credit identified for cancellation. Nevertheless, at its meeting in June 2008 the Working Group noted that the majority of the letters of credit identified by the ministries concerned had outstanding claims of delivery. Should it be confirmed as a result of the Secretariat review that such letters of credit have claims of delivery, those letters of credit will not be cancelled, consistent with the past practice.

4. Since the last report of the Working Group (see S/2008/318), in which 143 letters of credit with claims of delivery were identified, 11 letters of credit with claims of delivery were paid between 1 May and 30 June 2008. Hence, in spite of the various meetings of the Working Group, the processing of payment for 132 letters of credit with an approximate value of claims of US$ 273 million remains outstanding. In addition, with regard to any commercial disputes in connection with the letters of credit, the Working Group noted that any such disputes should be addressed through the dispute resolution mechanism established in the underlying commercial contract between the Government of Iraq and the relevant suppliers, or, in the absence of such a mechanism, by a competent court.

5. I wish to remind the Security Council that, with regard to contracts prioritized in accordance with Council resolution 1483 (2003), the Secretariat has identified certain transactions concerning suppliers who made claims of delivery within the validity period of the respective letter of credit and whose letters of credit were cancelled (see the note attached to my letter to the President of the Security Council (S/2007/725, para. 8)). I believe that whatever option may be selected by the Security Council for concluding all outstanding issues, these claims should be treated in the same manner as those claims of delivery that are reflected in the liability report included in annexes I, II and III to the report of the Working Group attached hereto.

6. On the basis of the outcome of the meeting of the Working Group of June 2008 as outlined above, and taking into account the considerable amount of time expended to bring the programme to a satisfactory conclusion, the Working Group indicated a series of alternatives that could be considered by the Security Council in order to conclude all outstanding issues. These alternatives are enumerated in paragraphs 18 and 19 of the report of the Working Group attached hereto.

7. I also wish to recall that in the letter of the President of the Security Council (S/2008/341), the members of the Council took note of the possibility of transferring unencumbered funds to the Development Fund for Iraq, in accordance with resolution 1483 (2003), and recommended that all unencumbered funds associated with the programme remain in the United Nations Iraq Account until such time as all outstanding issues are resolved.

8. In the context of the meeting of the Working Group of June 2008 and with a view to bringing the programme to a satisfactory conclusion, the Government of Iraq indicated that it would be prepared to provide appropriate indemnification to the United Nations with regard to the activities of the Organization and its representatives and agents under the programme, since its inception, with regard to the funds that have been transferred and will be transferred to the Development Fund for Iraq. If the Security Council were to agree to such an arrangement, the Secretariat could be requested by the Council to conclude an agreement with the Government of Iraq to provide for such an indemnity.

9. In addition, as a general matter, the Secretariat wishes to point out that the Organization should be comprehensively protected from any claims, irrespective of whether the Security Council approves a dispute resolution mechanism, resulting from the administration, operation and management of the programme (including claims resulting from the termination and the winding-down of the programme), including the retention of appropriate funds in the United Nations Iraq Account.

10. In the light of the foregoing, the Security Council may wish to review the alternatives proposed in the report of the Working Group and decide on the appropriate measures to conclude all outstanding issues with a view to ending the programme. In the circumstances, the Security Council's guidance is also sought as to the timing of any possible transfer of the funds currently in the United Nations Iraq Account to the Development Fund for Iraq.

**Attachment**

## Meeting of the Working Group regarding the termination of the operations of the letters of credit for the oil-for-food programme

**Amman, 27-30 May 2008**

## I. Introduction

1. Following the letter from the President of the Security Council to the Secretary-General dated 23 May 2003 (S/2008/341), a meeting of the Working Group was held in Amman from 27 to 30 June 2008. The Working Group met to address and resolve issues arising from 151 letters of credit that were reported to the Security Council in a letter from the Secretary-General to the President of the Security Council dated 9 May 2008 (S/2008/318).

2. In the context of its meeting, the Working Group reviewed all outstanding claims of delivery for the ministries concerned to confirm the delivery of the goods in each case and to issue and transmit the necessary confirmations of arrival.

3. In the above-mentioned letter of the President of the Security Council to the Secretary-General, the members of the Council requested the Secretary-General to submit an updated report as soon as possible in July 2008, in the light of which they would take the necessary decisions to conclude all outstanding issues and end the oil-for-food programme without the possibility of any further extensions.

## II. Status of the programme and development since the meetings of the Working Group in May 2008

4. The Working Group was briefed on the status of the processing of letters of credit (see table 1). It was noted that the number of letters of credit decreased from 151 at the end of April 2008 to 147 as at 20 June 2008 (see tables 1.A and 1.B). This decrease was mainly due to one letter of credit that was cancelled (communication No. 1100926) on 6 June 2008 and three letters of credit that were fully paid (communication Nos. 802524, 1030389 and 1030568) in June 2008. It was also noted that the number of letters of credit with claims of delivery decreased from 143 (with a value of approximately $294 million) at the end of April 2008 to 139 (with a value of approximately $272 million) at the end of June 2008 (see tables 1.A and 1.B).

5. The Secretariat indicated that the unpaid letters of credit with claims of delivery had been reduced since the meeting of the Working Group held in May 2008 but that there was still room for further significant reductions.

Table 1
**Status of letters of credit by expiry period as at 20 June 2008**

| | *Outstanding letters of credit* | | *Letters of credit with claims of delivery* | |
|---|---|---|---|---|
| *Expiration period* | *Number* | *Value*[a] | *Number* | *Value*[a] |
| 2004 | 28 | 29 588 279.90 | 26 | 22 035 589.77 |
| 2005 | 6 | 2 057 531.93 | 6 | 1 883 113.59 |
| 2006 | 59 | 183 055 147.40 | 57 | 90 335 852.65 |
| 2007 | 54 | 280 279 205.18 | 50 | 158 145 770.48 |
| **Total** | **147** | **494 980 164.41** | **139** | **272 400 326.51** |
| **Total at 30 April 2008** | **151** | **522 709 470.27** | **143** | **293 563 105.28** |

[a] United States dollar equivalent.

6. The Secretariat reviewed all letters of credit outstanding as at 20 June 2008 with the ministries of the Government of Iraq concerned, as shown in table 2.

Table 1.A

**Comparative status of letters of credit for 29 February 2008, 30 April 2008 and 20 June 2008, by expiry period**

| | *Status of letters of credit at 29 February 2008* | | *Status of letters of credit at 30 April 2008* | | *Status of letters of credit at 20 June 2008* | | *Changes 1 May to 20 June 2008* | |
|---|---|---|---|---|---|---|---|---|
| *Expiration period* | *Number* | *Claims of delivery* | *Number* | *Claims of delivery* | *Number* | *Claims of delivery* | *Number* | *Claims of delivery* |
| 2004 | 33 | 30 | 29 | 27 | 28 | 26 | (1) | (1) |
| 2005 | 7 | 6 | 6 | 6 | 6 | 6 | 0 | 0 |
| 2006 | 62 | 56 | 59 | 57 | 59 | 57 | 0 | 0 |
| 2007 | 65 | 56 | 57 | 53 | 54 | 50 | (3) | (3) |
| **Total** | **167** | **148** | **151** | **143** | **147** | **139** | **(4)** | **(4)** |

Table 1.B

**Comparative status of letters of credit for 29 February 2008, 30 April 2008 and 20 June 2008 by expiry period**

| | *Status of letters of credit at 29 February 2008* | | *Status of letters of credit at 30 April 2008* | | *Status of letters of credit at 20 June 2008* | | *Changes 1 May to 20 June 2008* | |
|---|---|---|---|---|---|---|---|---|
| *Expiration period* | *Value*[a] | *Value of claims*[a] | *Value*[a] | *Value of claims*[a] | *Value*[a] | *Value of claims*[a] | *Value*[a] | *Value of claims*[a] |
| 2004 | 39 120 755.93 | 30 799 952.54 | 30 412 088.93 | 22 847 736.68 | 29 588 279.90 | 22 035 589.77 | (823 809.02) | (812 146.91) |
| 2005 | 2 208 858.42 | 1 842 789.75 | 2 065 697.14 | 1 891 007.13 | 2 057 531.93 | 1 883 113.59 | (8 165.21) | (7 893.53) |
| 2006 | 191 131 411.90 | 48 963 277.90 | 189 582 275.78 | 93 310 982.88 | 183 055 147.40 | 90 335 852.65 | (6 527 110.38) | (2 975 130.22) |
| 2007 | 372 102 498.96 | 182 089 819.89 | 300 649 426.42 | 175 513 378.59 | 280 279 205.18 | 158 145 770.48 | (20 370 221.24) | (17 367 608.11) |
| **Total** | **656 254 366.16** | **175 370 699.87** | **522 709 470.27** | **293 563 105.28** | **494 980 164.41** | **272 400 326.51** | **(27 729 305.85)** | **(21 162 778.78)** |

[a] United States dollar equivalent.

Table 2
**Status of letters of credit by ministry as at 20 June 2008**

| *Ministry* | *Outstanding letters of credit* | | *Letters of credit with claims of delivery* | |
|---|---|---|---|---|
| | *Number* | *Value*[a] | *Number* | *Value*[a] |
| Agriculture | 16 | 33 347 106.83 | 16 | 19 216 187.30 |
| Baghdad Mayoralty | 2 | 30 971 702.95 | 2 | 4 360 667.01 |
| Education | 2 | 50 641 015.77 | 2 | 45 883 386.89 |
| Electricity | 12 | 40 905 730.40 | 11 | 8 514 524.47 |
| Health | 3 | 8 419 754.11 | 3 | 1 339 346.72 |
| Higher Education | 2 | 8 552 490.91 | 1 | 8 505 000.00 |
| Housing and Construction | 2 | 36 530 141.00 | 2 | 6 881 292.38 |
| Industry | 3 | 899 783.17 | 3 | 899 783.17 |
| Municipalities | 9 | 27 598 079.91 | 9 | 10 299 908.72 |
| Oil Spares | 35 | 79 190 176.57 | 31 | 28 521 016.17 |
| Trade — Automobile | 8 | 13 549 358.76 | 8 | 7 283 386.29 |
| Trade — Construction | 26 | 88 863 683.31 | 25 | 63 976 187.19 |
| Trade — Foodstuff | 4 | 4 722 463.06 | 3 | 4 284 185.66 |
| Trade — Grain Board | 2 | 2 205 320.40 | 2 | 558 682.33 |
| Trade — Shopping Centre | 5 | 3 238 269.55 | 5 | 3 179 566.86 |
| Transportation | 8 | 12 854 714.34 | 8 | 11 437 356.92 |
| Water Resources | 8 | 52 490 371.37 | 8 | 47 259 848.41 |
| **Total** | **147** | **494 980 164.41** | **139** | **272 400 326.51** |

[a] United States dollar equivalent.

7. The summary status included in table 3 indicates that a number of letters of credit with outstanding claims of delivery are still unresolved as they have no matching confirmations of arrival. From 1 May to 20 June 2008, the Secretariat received only 10 confirmations of arrival related to the following communication numbers: 1100581 (1837), 1001517 (1838), 800975 (1839), 1030389 (1840), 1030568 (1841), 830558 (1842), 802954 (1846), 1000446 (1847), 1101152 (1848) and 930483 (1849). It must be noted that, in the absence of a confirmation of arrival, the Secretariat would not be able to process payment for the relevant letter of credit, consistent with the requirements of Security Council resolution 986 (1995) and subsequent Council resolutions relating to the programme. For that reason, letters of credit without matching confirmations of arrival would remain outstanding.

Table 3
**Status of letters of credit by category as at 20 June 2008**

| Category | Total outstanding letters of credit | | Letters of credit with claims of delivery | |
|---|---|---|---|---|
| | Number | Value[a] | Number | Value[a] |
| Confirmations of arrival in Iraq which were issued or may be issued by the Government of Iraq prior to 15 July 2008 (see annex I) | 26 | 142 657 803.13 | 26 | 83 274 326.08 |
| Letters of credit requested to be cancelled by the Government of Iraq (see annex II) | 103 | 312 050 586.68 | 95 | 165 744 294.04 |
| Payments in process partial or full (see annex III) | 18 | 40 271 774.61 | 18 | 23 381 706.38 |
| **Total** | **147** | **494 980 164.41** | **139** | **272 400 326.51** |

[a] United States dollar equivalent.

Table 4
**Comparative status of letters of credit by category, 1 May to 30 June 2008**

| Category | As at 30 April 2008 | | As at 30 June 2008 | | Changes | |
|---|---|---|---|---|---|---|
| | Total outstanding letters of credit | Letters of credit with claims of delivery | Total outstanding letters of credit | Letters of credit with claims of delivery | Total outstanding letters of credit | Letters of credit with claims of delivery |
| | Number | Number | Number | Number | Number | Number |
| Confirmations of arrival in Iraq which may be issued by the Government of Iraq (see annex I) | 79 | 78 | 26 | 26 | -53 | -52 |
| Letters of credit requested to be cancelled by the Government of Iraq (see annex II) | 50 | 45 | 103 | 95 | 53 | 50 |
| Payments in process partial or full (see annex III) | 22 | 20 | 18 | 18 | -4 | -2 |
| **Total** | **151** | **143** | **147** | **139** | **-4** | **-4** |

| Category | As at 30 April 2008 | | As at 30 June 2008 | | Changes | |
|---|---|---|---|---|---|---|
| | Total outstanding letters of credit | Letters of credit with claims of delivery | Total outstanding letters of credit | Letters of credit with claims of delivery | Total outstanding letters of credit | Letters of credit with claims of delivery |
| | Value[a] | Value[a] | Value[a] | Value[a] | Value[a] | Value[a] |
| Confirmations of arrival in Iraq which may be issued by the Government of Iraq (see annex I) | 324 224 336.37 | 216 131 708.27 | 142 657 803.13 | 83 274 326.08 | (181 566 533.24) | (132 857 382.19) |
| Letters of credit requested to be cancelled by the Government of Iraq (see annex II) | 180 535 187.07 | 61 092 389.23 | 312 050 586.68 | 165 744 294.04 | 131 515 399.61 | 104 651 904.81 |
| Payments in process partial or full (see annex III) | 17 949 946.83 | 16 339 007.78 | 40 271 774.61 | 23 381 706.38 | 22 321 827.78 | 7 042 698.60 |
| **Total** | **522 709 470.27** | **293 563 105.28** | **494 980 164.41** | **272 400 326.51** | **(27 729 305.85)** | **(21 162 778.78)** |

[a] United States dollar equivalent.

8. With regard to table 4, the Secretariat noted that, in relation to a significant number of letters of credit where a confirmation of arrival was previously expected, the ministries concerned requested cancellation in the context of the meetings of the Working Group (see para. 14 below).

9. In addition, with regard to certain contracts prioritized in accordance with Security Council resolution 1483 (2003) for which claims of delivery for shipments were made within the validity of the related letter of credit and were communicated or discovered after the respective letter of credit had been cancelled, the Working Group agreed that, in the absence of a resolution of such claims, the relevant letters of credit would be deemed also outstanding for the purposes of the conclusion of the programme. Those letters of credit will be identified and communicated to the Security Council once all files are finally reviewed by the Secretariat.

10. With regard to any contractual disputes relating to the letters of credit, the Working Group noted that any such disputes should be addressed through the dispute resolution mechanism established in the underlying commercial contract between the Government of Iraq and the relevant suppliers, or, in the absence of such mechanism, by a competent court.

## III. Letters of credit identified for cancellation by the Government of Iraq

11. In January 2008, the Working Group had agreed to review 57 letters of credit identified for cancellation by the Government of Iraq in annex IV to the report on the meeting of the Working Group held in January 2008 (see S/2008/41). Of the 57 letters of credit identified, BNP Paribas cancelled 42 and one was fully paid. However, 14 letters of credit could not be cancelled as there were outstanding claims of delivery.

12. In a continuing effort to move towards the termination of the operations of the programme, the Secretariat has continued to regularly review letters of credit that have expired on their own terms with no claims of delivery. As a result of this continuing review, the Bank was able to cancel 13 additional letters of credit with no claims of delivery. The corresponding cash collateral was released from the collateral portion to the non-collateral portion of the United Nations Iraq Account and would be available, in principle, for transfer to the Development Fund for Iraq pursuant to resolution 1483 (2003).

13. In the context of the meetings of the Working Group in May 2008, the ministries concerned requested cancellation of 50 additional letters of credit (see annex II) regarding which the ministries indicated that the associated goods and/or services did not arrive or that the services were not provided in Iraq. As in the past, the Secretariat agreed to review the letters of credit identified but pointed out that the majority of the letters of credit identified by the ministries concerned had outstanding claims of delivery. On 13 June 2008, the Secretariat completed its review of the relevant letters of credit and the Bank is in the process of reviewing its files to determine if, in relation to those letters of credit, claims of delivery remain outstanding.

14. In the context of the meetings of the Working Group, the Government of Iraq requested cancellation for 53 additional letters of credit regarding which the

ministries concerned indicated that the associated goods and/or services did not arrive or that the services were not provided in Iraq. The Secretariat agreed to review the files for those letters of credit, indicating that, in some cases, claims of delivery might still be outstanding.

## IV. Status of the United Nations Iraq Account

15. As at 20 June 2008, the United Nations Iraq Account (the escrow account) contained $1,017 million, which is composed of $203 million and €521 million held in the Euro sub-account with an equivalent value of $814 million (at a rate of 1.56225). Of the total amount of $1,017 million, approximately $497 million is currently held in the cash collateral portion of the escrow account for expired letters of credit to cover claims of delivery made by suppliers. The remaining amount of $520 million is currently held in the non-collateral portion of the escrow account which corresponds to the following amounts: (a) $187 million, which is being held in the escrow account as a reserve for any unanticipated claims until such date as all unresolved issues relating to the programme are finally resolved pursuant to paragraph 16 of the note attached to the Secretary-General's letter to the President of the Security Council dated 10 July 2006 (S/2006/510); (b) $225 million originally held in the escrow account as collateral in respect of expired letters of credit which have not been transferred to the Development Fund for Iraq pending the resolution of claims of delivery from suppliers in those cases where the Government of Iraq has not issued authentication documents pursuant to the notes attached to the letters of the Secretary-General to the President of the Security Council dated 25 July 2007 (S/2007/476), 7 December 2007 (S/2007/725) and 23 January 2008 (S/2008/41); and (c) $108 million composed of recently cancelled letters of credit and any unrealized gains from the strengthening of the euro against the United States dollar.

## V. Conclusions of the Working Group and recommendations

16. The Working Group recalled that, in the letter from the President of the Security Council to the Secretary-General dated 23 May 2008 (S/2008/341), the members of the Council requested the Secretary-General to submit an updated report as soon as possible in July 2008, in the light of which they would take the necessary decisions to conclude all outstanding issues and end the programme without the possibility of any further extensions.

17. The Secretariat noted the progress achieved by the Government of Iraq regarding the processing and issuance of confirmations of arrival related to unpaid letters of credit with claims of delivery since the previous meeting of the Working Group. The Secretariat recalled, however, that consistent with Security Council resolution 986 (1995) and subsequent Council resolutions, payment under the programme pursuant to the relevant letters of credit requires the presentation of relevant authentication documents. Therefore, payment by the Secretary-General in the absence of documentation, namely the confirmations of arrival, would be contrary to that framework and hence would expose the Organization, its representatives and agents to claims.

18. In view of the foregoing and taking into account the considerable amount of time being taken to bring the programme to a satisfactory conclusion, the Working

Group indicated that one of the following alternatives could be considered by the Security Council in order to conclude all outstanding issues:

(a) Following the current approach pursuant to closing the programme, the Working Group may be instructed by the Security Council to continue its work and to meet on a regular basis as a means (i) to ascertain the progress achieved by the Government of Iraq in resolving all outstanding issues relating to the unpaid letters of credit and (ii) to process the remaining letters of credit;

(b) Consistent with previous communications on this matter, a dispute resolution mechanism may be deemed necessary as a means of resolving all outstanding issues relating to the unpaid letters of credit, as proposed by the Secretary-General in his letter to the President of the Security Council dated 7 December 2007 (S/2007/725) or a simplified version thereof;

(c) As a means to expedite the definitive conclusion of the programme and consistent with Security Council resolutions 1483 (2003) and 1546 (2004), responsibility for the administration of the remaining activity under the programme may be transferred to the Government of Iraq. Should such an alternative be considered, the funds in the escrow account corresponding to the claims of delivery relating to outstanding letters of credit would be transferred to the Development Fund for Iraq and the Government of Iraq would be required to provide quarterly reports to the Security Council so that the Council could ascertain the progress achieved by the Government of Iraq (i) in resolving all outstanding issues relating to the unpaid letters of credit and (ii) in processing and effecting payment of the remaining letters of credit. In the context of such a transfer of responsibilities, the disposition of the remaining funds currently in the escrow account would need to be determined by the Security Council. Consistent with the provisions already adopted by the Council, the funds could be kept until such time as all issues are finally resolved. Alternatively, they could be released without delay to the Development Fund for Iraq. This process should be targeted for completion by 31 December 2008.

19. In addition to the above, and with a view to bringing the programme to a satisfactory conclusion, the Government of Iraq would be required (a) to provide appropriate indemnification to the United Nations with regard to all activities of the Organization, its representatives and agents in connection with the programme since its inception and with regard to the funds that have been transferred and will be transferred to the Development Fund for Iraq, as referred to in the letter of the Secretary-General to the President of the Security Council dated 10 July 2006 (S/2006/510); and (b) to waive the right to any and all actions against the United Nations, its representatives and agents with regard to all activities of the Organization in connection with the programme since its inception.

20. The representatives of the Government of Iraq reiterated their support to the decision of the Security Council to resolve outstanding issues.

21. The representatives of the Government of Iraq expressed readiness to accept responsibility for the administration of the remaining activity under the programme and, in that context, to provide quarterly reports to the Security Council so that the Council could ascertain the progress achieved (a) in resolving all outstanding issues relating to the unpaid letters of credit and (b) in processing and effecting payment of the remaining letters of credit. Furthermore, the representatives of the Government of Iraq declared that their Government would be prepared to provide appropriate

indemnification to the United Nations with regard to all activities of the Organization, its representatives and agents in connection with the programme since its inception and to waive its right to any and all actions against the United Nations, its representatives and agents with regard to all activities of the Organization in connection with the programme since its inception.

22. In connection with the transfer of funds to the Development Fund for Iraq, the representatives of the Government of Iraq declared that their Government would agree to provide appropriate indemnification to the United Nations with regard to the funds that have been transferred and will be transferred to the Fund. However, it should be noted that the Government of Iraq believes that "the remaining funds currently in the escrow account" and referred to in paragraph 18 (c) above should be transferred without delay to the Fund.

For the Government of Iraq:

(*Signed*) Srood **Najib**
Ambassador
30 June 2008

For the Central Bank of Iraq:

(*Signed*) Moneer M. **Omran**
Acting Director General of Investment
30 June 2008

For the United Nations:

(*Signed*) Warren **Sach**
Controller, Assistant Secretary-General
30 June 2008

(*Signed*) Teklay **Afeworki**
Principal Officer
30 June 2008

## Annex I

### Confirmations of arrival in Iraq which were issued or may be issued by the Government of Iraq prior to 15 July 2008

| Ministry | Comm No | Letter of Credit | LC Balance Equivalent US$ | Pending Documents at BNP Equivalent US$ | US$ Balance with no claims |
|---|---|---|---|---|---|
| Agriculture | 1100171 | V751200 | 86 549.30 | 86 549.30 | 0.00 |
| Agriculture | 1100304 | V736362 | 1 383 173.87 | 1 383 163.30 | 10.58 |
| Baghdad Mayoralty | 901066 | L751671 | 26 671 850.70 | 60 814.76 | 26 611 035.94 |
| Education | 1300021 | B739304 | 10 247 214.39 | 5 489 585.51 | 4 757 628.88 |
| Electricity | 601701 | Z722153 | 358 499.22 | 51 396.58 | 307 102.64 |
| Electricity | 901749 | L732684 | 66 893.63 | 66 893.63 | 0.00 |
| Housing & Construction | 1001517 | T751770 | 19 029 548.99 | 6 383 017.11 | 12 646 531.88 |
| Municipalities | 802719 | C750829 | 2 836 723.79 | 2 836 723.79 | 0.00 |
| Municipalities | 1200370 | P738022 | 62 825.82 | 62 825.82 | 0.00 |
| Oil Spares | 631028 | Z751761 | 672 727.00 | 672 727.00 | 0.00 |
| Oil Spares | 631031 | Z751763 | 2 174 545.00 | 2 174 545.00 | 0.00 |
| Oil Spares | 830558 | M734207 | 78 532.85 | 78 532.85 | 0.00 |
| Oil Spares | 1230025 | P751776 | 2 363 636.36 | 2 363 636.36 | 0.00 |
| Oil Spares | 1230127 | P751526 | 522 101.96 | 43 918.24 | 478 183.72 |
| Trade-Automobile | 1101710 | V737379 | 5 138 204.35 | 4 334 409.81 | 803 794.54 |
| Trade-Automobile | 1200291 | P737772 | 380 347.17 | 346 040.28 | 34 306.89 |
| Trade-Construction | 702787 | U732869 | 913 733.97 | 913 733.97 | 0.00 |
| Trade-Construction | 800975 | C725998 | 1 396 809.39 | 1 396 070.08 | 739.32 |
| Trade-Construction | 802954 | C738447 | 1 739 380.02 | 1 152 532.24 | 586 847.78 |
| Trade-Construction | 900209 | L729055 | 16 431 487.95 | 3 377 784.54 | 13 053 703.41 |
| Trade-Construction | 1000454 | T731373 | 85 551.85 | 85 551.85 | 0.00 |
| Trade-Construction | 1101152 | V737364 | 3 178 534.20 | 3 178 534.20 | 0.00 |
| Trade-Grain Board | 901341 | L737106 | 280 136.86 | 280 136.86 | 0.00 |
| Trade-Shopping Center | 1001275 | T739181 | 130 111.46 | 82 665.54 | 47 445.93 |
| Water Resources | 702423 | U726920 | 3 572 882.10 | 3 516 736.55 | 56 145.55 |
| Water Resources | 1100581 | V734761 | 42 855 800.93 | 42 855 800.93 | 0.00 |
| **Total** | **26 LCs** | | **142 657 803.13** | **83 274 326.08** | **59 383 477.05** |

## Annex II

### Letters of credit requested to be cancelled by the Government of Iraq and final status to be reviewed by the Secretariat

| Ministry | Comm No | Letter of Credit | LC Balance Equivalent US$ | Pending Documents at BNP Equivalent US$ | US$ Balance with no claims |
|---|---|---|---|---|---|
| Agriculture | 800329 | C729396 | 4 024 814.04 | 4 024 814.04 | 0.00 |
| Agriculture | 800783 | C727202 | 3 281 945.43 | 3 281 945.43 | 0.00 |
| Agriculture | 801639 | M751744 | 304 821.15 | 191 713.84 | 113 107.31 |
| Agriculture | 901306 | L731155 | 1 541 793.86 | 1 541 793.86 | 0.00 |
| Agriculture | 1002233 | T751386 | 7 487 332.64 | 839 224.31 | 6 648 108.34 |
| Agriculture | 1002236 | T751710 | 1 259 390.59 | 46 656.30 | 1 212 734.29 |
| Agriculture | 1101106 | V751800 | 1 846 661.79 | 1 846 661.79 | 0.00 |
| Agriculture | 1101473 | V736780 | 615 597.81 | 615 597.81 | 0.00 |
| Agriculture | 1200447 | P750982 | 963 523.39 | 204 732.05 | 758 791.34 |
| Agriculture | 1200564 | P750157 | 2 081 418.49 | 2 081 418.49 | 0.00 |
| Agriculture | 1200933 | P739022 | 4 076 380.42 | 187 192.21 | 3 889 188.21 |
| Agriculture | 1201414 | P750944 | 4 066 404.43 | 2 616 522.53 | 1 449 881.90 |
| Agriculture | 1300126 | B750927 | 192 385.60 | 192 385.56 | 0.04 |
| Agriculture | 1300396 | B751597 | 134 916.02 | 75 816.49 | 59 099.53 |
| Education | 900655 | L737547 | 40 393 801.38 | 40 393 801.38 | 0.00 |
| Electricity | 601654 | Z725037 | 18 328 795.22 | 3 833 340.83 | 14 495 454.39 |
| Electricity | 700663 | U724186 | 1 552 678.00 | 307 308.00 | 1 245 370.00 |
| Electricity | 700824 | U724641 | 339 592.71 | 339 592.71 | 0.00 |
| Electricity | 1001243 | T733865 | 6 261.01 | 5 949.95 | 311.06 |
| Electricity | 1200840 | P738507 | 1 107 792.00 | 109 542.00 | 998 250.00 |
| Electricity | 1200853 | P738659 | 39 005.94 | 39 005.94 | 0.00 |
| Health | 801130 | M728881 | 1 036 207.95 | 1 036 207.87 | 0.08 |
| Health | 1000752 | T739588 | 6 861 496.08 | 244 127.96 | 6 617 368.12 |
| Higher Education | 601441 | Z719977 | 47 490.91 | 0.00 | 47 490.91 |
| Housing & Construction | 1001474 | T751716 | 17 500 592.01 | 498 275.27 | 17 002 316.73 |
| Industry | 900991 | L751810 | 52 074.37 | 52 074.37 | 0.00 |
| Industry | 1200555 | P751720 | 511 392.07 | 511 392.07 | 0.00 |
| Municipalities | 901987 | L734729 | 933 125.97 | 933 125.97 | 0.00 |
| Municipalities | 902053 | L736336 | 11 502 600.62 | 360 484.03 | 11 142 116.59 |
| Municipalities | 902090 | L738698 | 479 200.00 | 121 500.00 | 357 700.00 |
| Municipalities | 1000840 | T734819 | 112 288.99 | 112 288.99 | 0.00 |
| Municipalities | 1001204 | T751571 | 10 860 636.08 | 5 062 281.49 | 5 798 354.59 |
| Municipalities | 1001466 | T736516 | 607 465.01 | 607 465.01 | 0.00 |
| Municipalities | 1100301 | V737613 | 203 213.62 | 203 213.62 | 0.00 |
| Oil Spares | 630631 | Z737711 | 196 400.00 | 196 400.00 | 0.00 |

| Ministry | Comm No | Letter of Credit | LC Balance Equivalent US$ | Pending Documents at BNP Equivalent US$ | US$ Balance with no claims |
|---|---|---|---|---|---|
| Oil Spares | 630860 | Z731736 | 30 336.02 | 12 213.30 | 18 122.72 |
| Oil Spares | 631026 | Z751762 | 682 727.27 | 37 272.72 | 645 454.55 |
| Oil Spares | 631048 | Z728693 | 420 000.00 | 385 000.00 | 35 000.00 |
| Oil Spares | 631099 | Z737736 | 197 426.45 | 0.00 | 197 426.45 |
| Oil Spares | 730770 | U731683 | 19 614 089.82 | 0.00 | 19 614 089.82 |
| Oil Spares | 730971 | U737440 | 757 054.12 | 704 971.56 | 52 082.57 |
| Oil Spares | 731024 | U737646 | 2 711 304.51 | 2 357 288.96 | 354 015.55 |
| Oil Spares | 731032 | U737779 | 4 818 146.47 | 4 818 146.47 | 0.00 |
| Oil Spares | 830639 | M734860 | 24 898.91 | 24 898.91 | 0.00 |
| Oil Spares | 930074 | L730874 | 947 256.33 | 245 726.38 | 701 529.95 |
| Oil Spares | 1030451 | T735631 | 65 464.49 | 65 464.49 | 0.00 |
| Oil Spares | 1030463 | T734293 | 2 556 423.02 | 317 293.93 | 2 239 129.08 |
| Oil Spares | 1030622 | T751572 | 105 491.46 | 54 222.46 | 51 269.00 |
| Oil Spares | 1030728 | T735299 | 28 883 548.46 | 4 354 823.16 | 24 528 725.30 |
| Oil Spares | 1230094 | P739017 | 100 446.26 | 51 845.72 | 48 600.53 |
| Oil Spares | 1230159 | P738616 | 49 807.85 | 49 807.85 | 0.00 |
| Oil Spares | 1230176 | P751169 | 2 392 847.59 | 2 392 847.59 | 0.00 |
| Oil Spares | 1230255 | P738650 | 434 202.52 | 0.00 | 434 202.52 |
| Oil Spares | 1230318 | P750352 | 94 632.60 | 89 064.60 | 5 567.99 |
| Oil Spares | 1230448 | P739150 | 1 906 500.78 | 1 293 321.93 | 613 178.85 |
| Oil Spares | 1230495 | P750674 | 283 970.45 | 283 970.45 | 0.00 |
| Oil Spares | 1230584 | P751290 | 65 863.14 | 65 863.14 | 0.00 |
| Oil Spares | 1230588 | P750096 | 292 660.96 | 292 660.96 | 0.00 |
| Trade-Automobile | 801598 | C726086 | 4 656 225.51 | 1 021 271.63 | 3 634 953.87 |
| Trade-Automobile | 902034 | L735561 | 210 310.92 | 210 310.89 | 0.03 |
| Trade-Automobile | 1000226 | T731031 | 1 794 300.90 | 1 383.85 | 1 792 917.06 |
| Trade-Automobile | 1000288 | T731067 | 155 521.00 | 155 521.00 | 0.00 |
| Trade-Automobile | 1201398 | P750262 | 83 919.21 | 83 919.13 | 0.08 |
| Trade-Automobile | 1300213 | B750302 | 1 130 529.70 | 1 130 529.70 | 0.00 |
| Trade-Construction | 601979 | Z726060 | 2 274 451.57 | 0.00 | 2 274 451.57 |
| Trade-Construction | 801103 | C725591 | 1 221 072.08 | 56 012.60 | 1 165 059.49 |
| Trade-Construction | 801344 | C726197 | 2 564 601.31 | 2 564 594.09 | 7.22 |
| Trade-Construction | 802945 | C736601 | 173 493.93 | 147 744.73 | 25 749.21 |
| Trade-Construction | 802969 | M737883 | 25 212.43 | 25 072.86 | 139.56 |
| Trade-Construction | 900034 | L727655 | 4 100 862.50 | 4 100 851.65 | 10.86 |
| Trade-Construction | 901788 | L731638 | 75 837.81 | 75 837.81 | 0.00 |
| Trade-Construction | 1000299 | T732141 | 25 198.10 | 23 046.05 | 2 152.05 |
| Trade-Construction | 1000426 | T732124 | 3 256 833.20 | 3 256 789.98 | 43.22 |
| Trade-Construction | 1000445 | T733494 | 7 359 436.39 | 7 187 744.31 | 171 692.08 |
| Trade-Construction | 1000446 | T734532 | 1 367 771.06 | 822 970.72 | 544 800.34 |

| Ministry | Comm No | Letter of Credit | LC Balance Equivalent US$ | Pending Documents at BNP Equivalent US$ | US$ Balance with no claims |
|---|---|---|---|---|---|
| Trade-Construction | 1000600 | T732494 | 32 812 102.36 | 32 812 102.36 | 0.00 |
| Trade-Construction | 1100016 | V733855 | 121 331.84 | 23 126.08 | 98 205.75 |
| Trade-Construction | 1100020 | V735808 | 4 833 835.40 | 45 135.89 | 4 788 699.50 |
| Trade-Construction | 1100087 | V735834 | 2 011 915.26 | 36 818.66 | 1 975 096.59 |
| Trade-Construction | 1100129 | V736053 | 253 619.14 | 79 200.89 | 174 418.26 |
| Trade-Construction | 1100139 | V734535 | 1 806 588.54 | 1 799 681.34 | 6 907.20 |
| Trade-Construction | 1100149 | V734536 | 64 057.39 | 45 284.68 | 18 772.71 |
| Trade-Construction | 1300215 | B750425 | 393 181.42 | 393 181.40 | 0.02 |
| Trade-Food Stuff | 1300553 | B751627 | 104 960.31 | 104 960.31 | 0.00 |
| Trade-Food Stuff | 1300594 | B751625 | 4 017 488.15 | 4 008 939.04 | 8 549.11 |
| Trade-Grain Board | 1200994 | P751686 | 1 925 183.55 | 278 545.47 | 1 646 638.07 |
| Trade-Shopping Center | 1100408 | V736165 | 54 930.73 | 54 930.40 | 0.33 |
| Trade-Shopping Center | 1101147 | V735680 | 796 734.00 | 785 478.69 | 11 255.30 |
| Trade-Shopping Center | 1300164 | B750291 | 1 478 083.20 | 1 478 083.20 | 0.00 |
| Transportation | 801061 | C727374 | 2 500 953.30 | 2 443 721.46 | 57 231.84 |
| Transportation | 1100075 | V734155 | 45 058.94 | 45 058.94 | 0.00 |
| Transportation | 1100335 | V734553 | 66 746.50 | 66 746.50 | 0.00 |
| Transportation | 1201424 | P750468 | 151 387.65 | 3 321.79 | 148 065.86 |
| Transportation | 1201429 | P750492 | 66 309.49 | 66 309.49 | 0.00 |
| Transportation | 1201430 | P739433 | 234 211.80 | 229 701.93 | 4 509.88 |
| Transportation | 1201532 | P750004 | 7 838 258.16 | 7 838 258.16 | 0.00 |
| Transportation | 1300033 | B750473 | 1 951 788.49 | 744 238.65 | 1 207 549.84 |
| Water Resources | 601333 | Z718896 | 5 701 045.67 | 719 593.26 | 4 981 452.41 |
| Water Resources | 601909 | Z727261 | 30 398.00 | 30 398.00 | 0.00 |
| Water Resources | 700712 | U732313 | 275 125.00 | 82 200.00 | 192 925.00 |
| Water Resources | 702154 | U725738 | 51 647.40 | 51 647.40 | 0.00 |
| Water Resources | 801777 | M728103 | 3 388.24 | 3 388.24 | 0.00 |
| Water Resources | 1200538 | P751207 | 84.03 | 84.03 | 0.00 |
| **Total** | **103 LCs** | | **312 050 586.68** | **165 744 294.04** | **146 306 292.64** |

## Annex III

### Payments in process partial or full where confirmations of arrival have been received recently

| Ministry | Comm No | Letter of Credit | LC Balance Equivalent US$ | Pending Documents at BNP Equivalent US$ | US$ Balance with no claims |
|---|---|---|---|---|---|
| Baghdad Mayoralty | 802571 | M750987 | 4 299 852.26 | 4 299 852.26 | 0.00 |
| Electricity | 702374 | U760000 | 13 542 586.00 | 0.00 | 13 542 586.00 |
| Electricity | 801479 | C733847 | 3 246 641.33 | 3 246 641.33 | 0.00 |
| Electricity | 900778 | L737115 | 854 008.66 | 83 282.74 | 770 725.93 |
| Electricity | 900778 | L737360 | 1 462 976.67 | 431 570.76 | 1 031 405.91 |
| Health | 1100539 | V737691 | 522 050.08 | 59 010.89 | 463 039.19 |
| Higher Education | 702153 | U735282 | 8 505 000.00 | 8 505 000.00 | 0.00 |
| industry | 702674 | U751752 | 336 316.73 | 336 316.73 | 0.00 |
| Oil Spares | 631157 | Z751164 | 3 860 031.10 | 3 857 698.29 | 2 332.81 |
| Oil Spares | 830330 | C729335 | 386 070.86 | 192 204.04 | 193 866.81 |
| Oil Spares | 830875 | C734978 | 144 334.79 | 0.00 | 144 334.79 |
| Oil Spares | 1030464 | T751365 | 1 196 091.60 | 884 044.25 | 312 047.36 |
| Oil Spares | 1230347 | P738858 | 94 201.20 | 94 201.20 | 0.00 |
| Oil Spares | 1230606 | P751359 | 66 404.35 | 66 404.35 | 0.00 |
| Trade-Construction | 802968 | C737867 | 376 784.21 | 376 784.21 | 0.00 |
| Trade-Food Stuff | 900045 | L726681 | 329 125.26 | 0.00 | 329 125.26 |
| Trade-Food Stuff | 1001636 | T736742 | 270 889.35 | 170 286.31 | 100 603.03 |
| Trade-Shopping Center | 1100102 | V734534 | 778 410.16 | 778 409.02 | 1.14 |
| **Total** | **18 LCs** | | **40 271 774.61** | **23 381 706.38** | **16 890 068.22** |